

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 11, 2005

**D043961        People v. Moore**

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Irion, J.

**D043625        People v. Hubbs**

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

**D045590        Grantham v. San Diego Housing Authority**

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D047142        In re Salceda on Habeas Corpus**

The petition is denied.

**D047152        In re Lopez on Habeas Corpus**

The petition is denied.

**D047220        Payon v. The Superior Court of San Diego County/O'Dell**

The petition is denied.

Court convened at 9 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron  
Clerk: D. Moore

**D043343        Rodriguez v. Milliron et al.**

Cause called on merits. Sean Simpson, Esq. argued for appellant/cross-respondent. George L. Rodriguez, Pro Per, argued for respondent/cross-appellant, Sandra Cima, respondent in pro per was present in oral argument, but did not argue. Mr. Simpson replied.

**D045035        Carmel Valley, LLC v. RFS Partnership L.P. et al.**

Cause called on merits. Mark J. Dillon, Esq. argued for appellant. Rachel Christine Cook, Esq. was present in oral argument for appellant, but did not argue. Charles Bird, Esq. argued for respondent. Cause submitted.

Court recessed at 9:57 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Terry O'Rourke

**D045438        North Coast Women's Care Medical Group Inc., et al. v. Superior Court/Benitez-RPI**

Matter called on merits. Robert C. Coppo, Esq. argued for petitioner. Jennifer C. Pizer, Esq. argued for real party in interest. Mr. Coppo replied. Matter submitted.

Court recessed at 11:02 until 1:30 p.m.

Court reconvened at 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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October 11, 2005 (Continued)

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Cynthia Aaron and Joan Irion  
Clerk: D. Moore

**D044751        Stearns v. Balistreri**

Cause called on merits. Robert H. Lynn, Esq. argued for appellant. Daniel J. Kessler, Esq. argued for respondent. Mr. Lynn replied. Cause submitted.

**D045113        People v. Bates**

Cause called on merits. Patricia J. Ulibarri, Esq. argued for appellant. Pamela Ratner, Deputy Attorney General argued for respondent. Ms. Ulibarri replied. Cause submitted.

**D043811        Hallock v. Kimmel**

Cause called on merits. Steve Hallock, argued for appellant in pro per. Kimberly S. Oberrecht, Esq. was present in oral argument for respondent, and submitted on the briefs. Cause submitted.

Court recessed at 2:45 p.m. until Wednesday, October 12, 2005 at 9 a.m.

**D046377        In re M. G. et al, Juveniles**

The jurisdictional and dispositional orders are reversed and the court is directed to order the San Diego County Health and Human Services Agency to comply with the notice requirements of the Indian Child Welfare Act. If, after proper notice and inquiry, a tribe exercises its right to intervene, the court is directed to conduct new jurisdictional and dispositional hearings. If no tribe exercises its right to intervene and the court determines proper ICWA notice has been provided, it is directed to reinstate all prior orders. Irion, J.; We Concur: Benke, Acting P.J., Huffman, J.

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**D044408        People v. Stronach**

Affirmed in part, reversed in part, and remanded for resentencing in accordance with this opinion. Nares, Acting P.J.; We Concur: Huffman, J., Aaron, J.

**D044871        People v. Dahl.**

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D046623        In re Daniel C. et al., Juveniles**

Appellants have failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a)(1), 37.3(b)(5), and 37.4(a)(2). The appeals are dismissed.

**D047262        Smart Inventions, Inc. v. Superior Court of San Diego County/Burns**

The petition is denied.

**D044809        People v. Accredited Surety and Casualty Co., Inc.**

The order denying the motion to set aside the bail bond forfeiture is affirmed. The matter is remanded to superior court to amend the judgment nunc pro tunc to reflect the date of forfeiture as April 25, 2003. As so modified, the summary judgment is affirmed. Respondent is entitled to recover costs on appeal. Aaron, J.; We Concur: McConnell, P.J., Haller, J.

**D047274        Best Interiors Incorporated v. Superior Court of San Diego County/900 F Street Partners L.P. et al.**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and the Honorable Associate Justices Judith Haller and Terry O'Rourke.

Clerk: B. Henson

**D045114        People v. Oliver**

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. Kristen Chenelia, Deputy Attorney General argued for respondent. Mr. Babcock replied. Cause submitted.

Court recessed at 9:15 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice and the Honorable Associate Justices Patricia Benke and Terry O'Rourke.

**D045634        People v. Stanley**

Cause called on merits. Armon Haddad, Esq. argued for appellant. Scott Taylor, Deputy Attorney General argued for respondent. Mr. Haddad replied. Cause submitted.

**D043307        Gandy v. Asplundh Tree Expert Company**

Cause called on merits. Lisa K. Willhelm-Cooney, Esq. argued for appellant and cross-respondent. Neal Moore, Esq. argued for respondent and cross-appellant. Ms. Willhelm-Cooney replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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**D045481        Black Historical Society of San Diego v. City of San Diego et al.**

Cause called on merits. Kenneth N. Hamilton, Esq. argued for appellant. Jenny K. Goodman, Esq. argued for real party in interest and respondent Wakeland Housing and Development Corp. Justin Booth, Deputy City Attorney argued for respondents. Judith Hartwig, Esq. argued for real party in interest and respondent Centre City Development Corp. Mr. Hamilton replied. Cause submitted.

Court recessed at 10:25 a.m. until 1:30 p.m.

**D045347        Woods et al. v. Neptune Terrace Condominium Association et al.**

The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Aaron, J.

**D043512        People v. Williams**

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Benke, J.

**D047129        Alfred N. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Alfred N. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed. The case is dismissed.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Joan Irion.

Clerk: B. Henson

**D045346        Burke v. Mass**

Cause called on merits. Louis Goebel, Esq. argued for appellant. Douglas Webb, Esq. argued for respondent. Mr. Goebel replied. Cause submitted.

**D044849        Daniels et al. v. The San Diego Grand Prix Association, LLC**

Cause called on merits. John Morris, Esq. argued for appellant. Stuart Hirsch, Esq. argued for respondent. Mr. Morris replied. Cause submitted.

Court recessed at 2:03 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and the Honorable Associate Justices Cynthia Aaron and Joan Irion.

**D045973        In re Jasmine M. et al., Juveniles**

Cause called on merits. Andrea St. Julian, Esq. argued for appellant Jasmine M. et al. Linda Fabian, Esq. argued for appellant Nanette M. Paula Roach, Senior Deputy Attorney for County Counsel argued for respondent. Julie Braden, Esq. argued for minor. Ms. St. Julian replied. Ms. Fabian replied. Cause submitted.

**D046485        All Covered, Inc. v. Moore**

Cause called on merits. Mark Margarian, Esq. argued for appellant. Allan Dell'Ario, Esq. argued for respondent. Mr. Margarian replied. Cause submitted.



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Court recessed at 3:16 p.m. until Thursday, October 13, 2005, at 9:00 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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DIVISION ONE  
October 13, 2005

**D047250      San Diego Metropolitan Transit Development Board v. The Superior Court of San Diego County/Tenet Healthcare Corporation**

The petition for writ of mandate has been read and considered by Justices Huffman, Haller and O'Rourke. The refusal of the trial judge renders the petition moot. The petition is dismissed. The stay issued in this court on October 5, 2005, is vacated.

**D045354      Independent Association of Mailbox Center Owners, Inc. v. Superior Court of San Diego County/Mail Boxes Etc., et al.**

The opinion filed September 16, 2005 is ordered certified for publication.

**D046162      Truong v. Appellate Division of the Superior Court of San Diego County/People**

Let a writ of prohibition issue preventing the court from taking any further action except to dismiss the charges against Truong. The opinion is final as to this court immediately. Aaron, J.;  
We Concur: McConnell, P.J., Haller, J.

**D046426      GW Flooring, Inc. v. Nguyen et al.**

Appellants have failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

Court convened at 9 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron  
Clerk: D. Moore

**D045238      Bonner et al. v. County of San Diego et al.**

Cause called on merits. Richard H. Benes, Esq. argued for appellant. William Johnson, Deputy County Counsel argued for respondent. Scott L. Metzger, Esq. argued for respondent, San Diego County Employees Retirement. Mr. Benes replied. Cause submitted.

Court recessed at 9:30 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron

**D045509      Adoption of Joshua S., a Minor**

Cause called on merits. John L. Dodd, Esq. argued for appellant, Sharon S. Shannon Minter, Esq. argued for respondent, Annette F. Mr. Dodd replied. Cause to be submitted at a later date.

Court recessed at 10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Judith Haller  
Clerk: D. Moore

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**D046780        Sambath v. Superior Court/San Diego County Health & Human Services Agency-RPI**

Matter called on merits. Carolyn Levenberg, Deputy Public Defender argued for the minor. Christopher Booth, Esq. argued for petitioner. Gary Seiser, Deputy County Counsel argued for respondent. Matter submitted.

**D044794        Garber v. Horton, Knox, Carter & Foote**

Cause called on merits. Paul Cambron Johnson, Esq. argued for appellant. Louis G. Arnell, Esq. was present in oral argument for respondent, but did not argue. Jon R. Williams, Esq. argued for respondent. Mr. Johnson replied. Cause submitted.

Court recessed at 2:39 p.m. until Friday, October 14, 2005 at 9 a.m.

**D046963        Christina J. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case as to Christina J. is dismissed.

**D045507        Rinehart v. Boys & Girls Club of Chula Vista**

The opinion filed September 21, 2005 is ordered certified for publication.

**D047286        Talley v. Superior Court of San Diego County/The Marshall Group Inc., et al.**

The petition is denied.

**D046504        In re Isaiah E., a Juvenile**

Appellant has failed to file a proper brief after notice given pursuant to California Rules of Court, rules 17(a)(1), 37.3(b)(5), and 37.4(a)(2). The appeal is dismissed.

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**D043811        Hallock v. Kimmel**

The judgment is affirmed. Aaron, J.; We Concur: Nares, Acting P.J., Irion, J.

**D044764        Wittmack et al. v. Federal Insurance Company et al.**

The declaratory judgment is affirmed. Federal is entitled to costs on appeal. McConnell, P.J.; We Concur: Nares, J., Aaron, J.

**D046419        In re Brenda B., a Juvenile**

The judgment is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D047156        In re Jones on Habeas Corpus**

The petition is denied.

**D045831        People v. Franck**

The judgment is affirmed. Haller, J.; We Concur: McConnell, P.J., Benke, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke.

Clerk: B. Henson

**D044967        Robert L. Rentto, PLC et al. v. Four Seasons No. 1500 LTD.**

Cause called on merits. Randy Kramer, Esq. argued for appellant. Robert H. Lynn, Esq. argued for respondent. Robert Rentto appeared for respondent but did not argue. Mr. Kramer replied. Cause submitted.

**D045379        Conde v. City of San Diego et al.**

Cause called on merits. Bruce Henderson, Esq. argued for appellant. Maria Serverson, Deputy City Attorney argued for respondents City of San Diego et al. Robert Otilie, Esq. argued for respondent George Stevens. Leslie F. Keehn, Esq. argued for respondent Charles Abdelnour. Mr. Henderson replied. Cause submitted.

Court recessed at 10:23 a.m. until 1:30 p.m.

**D046890        In re T.S., a Juvenile**

The appeal is dismissed. Huffman, J.; We Concur: McConnell, P.J., Benke, J.

**D045346        Estate of Korth, Deceased**

The order is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., Nares, J.

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**D046971 Marie W. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Roy C. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case as to Roy C. is dismissed.

The court reconvened at 1:30 p.m.

Present: The Honorable Presiding Justice Judith McConnell, and The Honorable Associate Justices Judith Haller and Terry O'Rourke.  
Clerk: B. Henson

**D045480 Baker et al. v. Tramutola et al.**

Cause called on merits. Stephen J. Modafferri, Esq. argued for appellants. Gregory Kane, Esq. argued for respondents. Mr. Modafferri replied. Cause submitted.

**D045687 People v. Kaiser**

Cause called on merits. Richard Barnett, Esq. argued for appellant. David M. Stotland, Deputy City Attorney argued for respondent. Mr. Barnett replied. Cause submitted.

**D043433 Lair et al. v. Vinci**

Cause called on merits. Michael Vivoli, Esq. argued for appellants and cross-respondents. Bradley Jacobs, Esq. argued for respondents and cross-appellants. Mr. Vivoli replied. Mr. Jacobs replied. Cause submitted.

**D044750 Fava v. Solar Turbines, Inc.**

Cause called on merits. John Goffar, Esq. argued for appellant. James DeRoche, Esq. argued for respondent. Mr. Goffar replied. Cause submitted.

Court recessed at 3:03 p.m.